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STATE PASS TO L, ISN, PM, SA. DOD PASS TO OGC.

E.O. 12958: DECL: 09/05/2016
TAGS: [MCAP](#) [PARM](#) [PREL](#) [PK](#)
SUBJECT: ANTI-VEHICLE MINE PROTOCOL: ENGAGING PAKISTAN ON A
COMPROMISE APPROACH

Classified By: CDA Judith Chammas. Reason: E.O. 12958, 1.4(d)

11. (C) This is an action request. As recommended by Pakistani Amb Masood Kahn to USDEL in Aug 28-Sept 6 CCW meeting, Mission Geneva requests that Department convey the points at para 6 to Pakistani ambassador in Washington and that DoD request military attach in Islamabad to convey same points to GHQ, drawing on background (paras 2-5) as appropriate. We recommend that points be left with interlocutor as a non-paper.

12. (SBU) Background: The USG and 30 other states proposed a "Protocol on Mines other than Anti-personnel Mines (MOTAPM)" at the Meeting of States Parties to the Convention on Conventional Weapons (CCW) in 2005, after several years of discussion. CCW operates by consensus. Pakistan consistently has opposed the conclusion of a protocol addressing anti-vehicle mines, and has been particularly concerned about any obligation that would establish requirements for detectability and limit the active life of Pakistan's MOTAPM. Pakistan has stated that its military doctrine requires that it retain persistent non-detectable anti-vehicle landmines.

13. (C) USG previously urged Pakistan not to block the adoption of a MOTAPM protocol that has wide support among CCW states. However, Pakistan has remained opposed, along with Russia, China, Belarus and Cuba. In view of this, and in the interest of making it possible to adopt a protocol by consensus that makes at least some humanitarian progress, the USG has revised its position. We accept at face value Pakistan's comment and are prepared to see the provisions on detectability and active life pulled out of the protocol and moved to optional annexes. States joining the protocol would not be bound by those provisions unless they decided to take on those additional commitments ("opt-in"). We believe this should fully address Pakistan's concerns. We expect to have some difficulty persuading the European Union and others who continue to support our earlier position, but we may be able to engage all delegations in this approach as a compromise if we can obtain signals that this approach is an acceptable basis for adoption of a protocol in November from delegations that previously opposed. USDEL has explained the potential compromise to each of the objecting countries in bilateral meetings during the current CCW session, and each has undertaken to consider seriously the new option.

14. (C) Prior to the current session of the Group of Governmental Experts of CCW, the Brazilian Ambassador Carlos da Rocha Paranhos, tasked by the conference as the MOTAPM Coordinator, introduced a paper in advance of the meeting

that had no provisions on detectability or active life but said the solution needed to be worked out separately and inserted. On August 29, the U.S. delegation met with Pakistani Permrep Amb. Masood Khan and explained the "opt in" approach on active life and detectability. USDEL provided text similar to that set out para 7 below and explained it in detail. Khan understood that the new approach was designed to accommodate their concerns, expressed appreciation for the imaginative USG effort, and promised to give careful study to the new approach. Khan said that the current Pakistani position was the result of extensive inter-ministerial discussion and said that it would not be possible to change it during the current CCW session. He said that his delegation would seriously consider it prior to the November review conference and he recommended that (a) Dept raise the matter with the Pakistani ambassador in Washington, who is a former chief of staff and is respected by the military, and (b) the U.S. military attach in Islamabad raise the matter with General Headquarters, explaining the proposal and why it should meet Pakistani concerns.

15. (C) During the course of the CCW meeting, it became clear to the U.S. del, and this view was shared by Paranhos, that the U.S. proposal was the only possible grounds for compromise. At the end of the session Paranhos forwarded a consolidated text in a report to the November Revcon that included a text based on the U.S. paper as a possible consensus option(described in para 7).

16. (C/Rel Pakistan) Begin talking points:

-- As you know, the U.S. delegation has met repeatedly with your delegation to the Convention on Conventional Weapons ("CCW") over the past several years to understand your concerns about an anti-vehicle mines protocol and to address them.

-- The United States and other CCW states parties consistently have argued for strong provisions on active life and detectability, because we believe this would address most effectively the humanitarian problem posed by anti-vehicle landmines.

-- In response, Pakistan has made clear it is not currently in a position to accept binding obligations related to limitations on active life or detectability.

-- Given that firm position, we are prepared to seek as a solution a protocol that does not contain commitments on detectability and active life, but rather would allow states that join to decide whether to undertake supplemental commitments in these areas.

--Under this approach, a state that wished to be legally bound could "opt in" to these requirements, either at the time it acceded to the Protocol or at any time in the future. A state that did not wish to be legally bound would not need to "opt in," but would be bound by the provisions in the body of the Protocol, including provisions on transfers and cooperation.

--This approach is analogous to adherence to the CCW itself, which allows State Parties to "opt in" to protocols. It recognizes that each state must make its own decision to be bound by new legal obligations, but offers the opportunity for states willing to do so - now or in the future - to make a broader commitment.

--We explained this approach to Geneva Permanent Representative Amb. Khan at the CCW meeting on August 29. We urge that you consider it favorably. Although much work will be involved, we are prepared to engage the co-sponsors of our previous proposal in accepting this approach.

-- We hope this new approach will allow for adoption by consensus of an anti-vehicle mines protocol in November.

End points.

¶7. (U) U.S. proposal presented to Amb. Khan at the beginning of the negotiations was modified slightly after extensive discussions with other delegations. The MOTAPM Coordinator set out the substance of this text as an option in his report to the RevCon:

Proposal Concerning Detectability and Active Life

¶1. Insert the following article in place reserved for Article 3 and 4 in CCW/GGE/XV/WG.2/1, and renumber the subsequent articles accordingly:

Article 3 Detectability and active life of MOTAPM/AVMs

¶1. At the time of submittal to the Depositary of its instrument expressing its consent to be bound to this set of provisions, a State may submit a written declaration agreeing to be bound by Optional Annex A on detectability or Optional Annex B on active life, or agreeing to be bound by both.

¶2. A declaration referred to in paragraph 1 may also be submitted to the Depositary by a State that has previously expressed consent to be bound by this set of provisions at any time after the entry into force of this set of provisions for that State.

¶3. A declaration referred to in paragraph 1 or 2 may stipulate that it is effective immediately or may stipulate a specific date upon which it shall be effective.

¶2. Replace paragraph 1(b) of article 9 in CCW/GGE/XV/WG.2/1 with the following:

(b) which does not meet the standards for detectability and active life of MOTAPM/AVM contained in Optional Annex A and Optional Annex B, except for the purpose of destruction or for development of and training in mine detection, mine clearance, or mine destruction techniques;

¶3. Add the following two annexes at the end of CCW/GGE/XV/WG.2/1:

Optional Annex A

Detectability of MOTAPM/AVMs

¶1. It is prohibited to use MOTAPM/AVMs which are not detectable.

¶2. An MOTAPM/AVM is detectable if, upon emplacement, it provides a response signal equivalent to a signal from eight grammes or more of iron in a single coherent mass buried five centimetres beneath the ground and can be detected by commonly-available technical mine detection equipment.

¶3. MOTAPM/AVMs used in a perimeter-marked area are excluded from the detectability requirement of this Annex.

Optional Annex B Active life of MOTAPM/AVMs

¶1. It is prohibited to use MOTAPM/AVMs that do not incorporate a self-destruction mechanism or a mechanism for self-neutralization designed and constructed so that no more than ten percent of activated mines will fail to self-destruct within forty-five days after arming.

¶2. It is prohibited to use MOTAPM/AVMs that do not incorporate a back-up self-deactivation feature that is designed and constructed so that, in combination with the mechanism referred to in paragraph 1, no more than one in one thousand activated mines will function as a mine one hundred twenty days after arming.

¶3. MOTAPM/AVMs used in a perimeter-marked area are excluded

from the requirements of this Annex.

¶4. Delete paragraph 4 of Technical Annex B in CCW/GGE/XV/WG.2/1, renumber paragraph 5 accordingly, and conform the cross-reference in article 12

End text of proposal.

¶7. (U) Please ask Embassy Islamabad to slug cable report of any response for L, ISN, PM, SA, DOD and JCS, and to info Mission Geneva. Mission also requests that Dept inform Mission of any response to Washington demarche.
TICHENOR